United Nations A/HRC/39/71

General Assembly

Distr.: General
13 August 2018

Original: English

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda item 10
Technical assistance and capacity-building

Report of the Independent Expert on the situation of human rights in the Sudan

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the situation of human rights in the Sudan, Aristide Nononsi, submitted pursuant to Human Rights Council resolution 36/26.

In its resolution 36/26, the Human Rights Council decided to renew the mandate of the Independent Expert on the situation of human rights in the Sudan for a period of one year and requested him to present a report at its thirty-ninth session. In the present report, which covers the period from September 2017 to June 2018, the Independent Expert analyses the situation of human rights in the Sudan, outlines recent developments and the continuing human rights challenges in the country, assesses the implementation of the recommendations contained in the previous reports of the Independent Expert as well as technical assistance provided to the Government of the Sudan by various bilateral and multilateral partners, identifies additional technical assistance and capacity-building needs and provides a list of recommendations, addressed to the Government and other stakeholders, necessary for improving the situation of human rights in the country.

GE.18-13471(E)
1813471

Please recycle

Report of the Independent Expert on the situation of human rights in the Sudan

Contents

		Page
I.	Introduction	3
II.	Methodology and engagement	3
III.	Key recent developments	4
IV.	Main human rights challenges	5
	A. Harassment of human rights defenders and curtailment of civil society actors	5
	B. Restrictions on freedom of religion	6
	C. Press censorship	6
	D. Women's rights	7
	E. Economic and social rights	8
	F. Human rights situation in conflict-affected areas	8
	G. South Sudanese refugees in the Sudan	11
V.	Technical assistance and capacity-building	11
VI.	Conclusion and recommendations	12
	A. Government of the Sudan	12
	B. International community	13

I. Introduction

1. In its resolution 36/26, the Human Rights Council decided to renew the mandate of the Independent Expert on the situation of human rights in the Sudan for a period of one year and requested him to present a report on the implementation of his mandate, including recommendations on technical assistance and capacity-building, for consideration at its thirty-ninth session.

2. The present report covers the period from 28 September 2017 to 30 June 2018. In compliance with the Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council, a draft report was shared with the Government of the Sudan in order to provide it with an opportunity to comment on the observations and findings of the Independent Expert.

3. The report is based on information made available to the Independent Expert during his visit to the Sudan, as well as on information provided by the Government of the Sudan, the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and other sources, including civil society organizations, United Nations agencies, funds and programmes working in the Sudan, as well as the donor community.

4. The Independent Expert expresses his gratitude to the Government of the Sudan for its invitation and cooperation, to the Office of the United Nations Resident and Humanitarian Coordinator in Khartoum and to UNAMID for supporting and facilitating his mission to the country. He also thanks the donor community and civil society organizations for their important work in promoting and protecting human rights in the country.

5. He also thanks all other organizations, groups and individuals who provided assistance and shared information with him during the period under review.

II. Methodology and engagement

6. The Independent Expert undertook one visit to the Sudan during the reporting period, from 13 to 23 April 2018, and visited Khartoum and Darfur.

7. In Khartoum, the Independent Expert held wide-ranging discussions with senior government officials, including the State Minister of Foreign Affairs and the Speaker of the National Assembly, with officials in the Ministry of Justice and specialized government units and agencies, and with members of the Legislative Committee of the National Assembly. He interacted with the Chief Justice and high-ranking members of the judiciary, and had an exchange with the Acting Attorney General. He also had frank and fruitful discussions with the newly appointed Director of the Legal Department of the National Intelligence and Security Service. He was informed of recent developments in the situation of human rights in the country by the Rapporteur and members of the Advisory Council for Human Rights. He also met the new leadership of the Sudan National Commission for Human Rights, the leadership of the Humanitarian Aid Commission, the Chair and members of the Sudan Bar Association and the Chair and members of the National Press Council. He also met with representatives of civil society organizations, human rights defenders and victims of human rights violations and abuses, some of whom shared their personal experiences with him. He met with members of the diplomatic community and representatives of the United Nations country team.

8. In North Darfur, the Independent Expert met with the Governor of the State of North Darfur, members of the judiciary, including the Special Prosecutor for crimes committed in Darfur, the Regional Representative of the Sudan National Commission for Human Rights, officials of UNAMID and United Nations agencies in North Darfur, and civil society organizations. He also visited Shallah Federal Prison.

III. Key recent developments

9. During the reporting period, the Government undertook an arms collection campaign in Darfur. The campaign, which started in July 2017, was implemented without major incidents in most areas of the Darfur region. According to information received by the Independent Expert, the campaign appeared to have constrained weapons use by various armed militias and criminals, contributing to improved security, especially in North and South Darfur. Nevertheless, relatively few weapons were collected. In early 2018, the Governor of North Darfur reported that 30,000 weapons (including 9,000 in North Darfur) had been collected out of an estimated 700,000 weapons believed to be in illegal circulation across Darfur. There were also concerns among internally displaced communities that nomadic groups had not been equally disarmed. Several armed militia groups, mostly of Arab ethnicity, continued to pose a threat to civilians in several areas across Darfur.

10. From January to March 2018, several peaceful demonstrations took place in Khartoum and Darfur to protest against high inflation and austerity measures in the country's 2018 budget, which has resulted in rising prices of essential commodities.

11. Reports refer to an excessive and disproportionate use of force by Sudanese security forces to disperse the demonstrations, including the use of lethal force and tear gas, leaving one person dead and several injured in the Darfur city of El Geneina. It is estimated that the National Intelligence and Security Service arrested at least 200 people throughout the country. The majority of arrests took place on 16 and 17 January 2018 during demonstrations called by political opposition parties supporting the protests.

12. It is also reported that dozens of prominent political activists, human rights defenders and journalists were arrested by the National Intelligence and Security Service from their homes or offices and held incommunicado or taken to undisclosed locations. Some of the detainees were transferred from Khartoum to Darfur. On a positive note, most detainees were released in April 2018, prior to the Independent Expert's visit to the Sudan.

13. For most of the reporting period, the security situation remained relatively stable in Darfur. However, since March 2018 there has been a notable increase in clashes in Jebel Marra, particularly fighting in east Jebel Marra between the Government of the Sudan and the Sudan Liberation Army-Abdul Wahid. A series of clashes led to reports of at least 7,300 civilians displaced and the destruction of villages. More than 3,000 new arrivals of internally displaced persons were reported in Otash camp, outside Nyala. Reports indicated that there were also new arrivals of internally displaced in Marshang, Belle El Serief and Kass; these figures are pending verification. Access to many of the affected areas had not been granted to UNAMID or humanitarian actors, which led to temporary disruptions in humanitarian programming in the area.

14. In addition, in April 2018, at least 11,000 people in north Jebel Marra were displaced to Rokero due to clashes involving armed militias. In May 2018, in Central Darfur, clashes between armed Arab groups and internally displaced persons in camps in Zalingei and Garsila reportedly resulted in multiple deaths among the displaced community. In November 2017, internal fighting was also reported among Sudan Liberation Army-Abdul Wahid factions, which reportedly resulted in the killing and injury of civilians, destruction of houses and looting of community assets.

15. In October 2017, the United States of America lifted long-standing sanctions against the Sudan, citing the country's progress in fighting terrorism and easing humanitarian distress. The sanctions had included a trade embargo, a freeze on some government assets, and restrictions on Sudanese banks and the ability of foreign banks to do business with the Sudan.

16. In April 2018, the Chair, Deputy Chair and commissioners of the Sudan National Commission for Human Rights were appointed. The Independent Expert commended the Government of the Sudan for this positive step and reiterated his call on the Sudanese authorities to ensure that the Commission was functioning in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

17. Although the Government and the armed groups have not agreed on a permanent ceasefire, they continue to extend temporary cessations of hostilities. On 19 March 2018, President Bashir extended the Government's unilateral ceasefire until 30 June 2018 while the Sudan Liberation Army-Minni Minawi and the Justice and Equality Movement extended theirs until 6 August 2018.

18. Despite the prolonged period without a mutually agreed cessation of hostilities, no clashes were reported between the Government and the Sudan People's Liberation Movement-North (SPLM-N) in Blue Nile and South Kordofan during the reporting period.

IV. Main human rights challenges

19. In spite of assurances of cooperation and some commitments from the Sudanese authorities to take steps towards implementing the recommendations contained in the Independent Expert's previous reports,[1] as well as a significant decline in military operations in the conflict-affected areas of Darfur, Blue Nile and South Kordofan, the Sudan continues to face a number of human rights challenges.

20. Prior to his mission, the Independent Expert had received reports of restrictions on political rights and fundamental freedoms, including freedom of expression, freedom of the press, freedom of association and peaceful assembly, freedom of religion, arbitrary arrests and detentions, torture and degrading treatment, perpetrated by the Sudanese security forces.

21. In Darfur, the Independent Expert noted that the root causes of the conflict were still largely unaddressed. In addition, land occupation and violence targeting internally displaced persons, including sexual violence against displaced girls and women, continued to hinder their return to their areas of origin. Moreover, the existence of a state of emergency since 1997 continued to have negative implications for fundamental freedoms in the region.

22. In Blue Nile, displaced communities fought along ethnic lines following a split within the leadership of the armed opposition group SPLM-N in July 2017. Nevertheless, the internal SPLM-N conflict in Blue Nile had generally ceased by October 2017. However, tension remained high as the two factions maintained different camps and showed no signs of reconciliation.

A. Harassment of human rights defenders and curtailment of civil society actors

23. The Independent Expert received reports of incidents of harassment, arrests and prolonged detention targeting representatives of civil society organizations, without affording them or their families access to legal representation. For instance, most arrests and detentions occurred in Khartoum and Darfur in the framework of peaceful demonstrations that had taken place to protest against high inflation and austerity measures in the country's 2018 budget. In this context, Salih Mahmoud, a prominent lawyer and Vice-Chair of the Darfur Bar Association, was arrested at his office on 1 February 2018 and detained incommunicado for several weeks. Of particular concern is the treatment of female activists during these arrests. Miass Safi was arrested together with three other activists at her home on 20 February.

24. The members of the group were released on 24 and 25 February, despite the fact that, according to their lawyers, the prosecutor had earlier refused to sign the documents needed to secure their release on bail.

25. These actions by the security agencies stifle free speech and the effective operations of civil society organizations in the Sudan and are contrary to the obligation of the Sudan to respect and protect the rights to freedom of assembly and expression as guaranteed under

[1] See A/HRC/30/60, para. 74; A/HRC/33/65, para. 75; and A/HRC/36/63, para. 87.

the 2005 Interim National Constitution and the International Covenant on Civil and Political Rights, to which the Sudan is a State party. Civil society organizations are the bedrock of the protection and promotion of human rights in a democratic society, and the Government must ensure that they are able to operate freely and that their rights to freedom of assembly and expression are fully respected.

26. In this context, the Independent Expert welcomed the decision to release other human rights defenders and political activists who had been arrested in connection with the demonstrations against austerity measures in the country's 2018 budget, and encouraged the authorities to ensure that all those still arbitrarily detained were released and to refrain from such detentions in the future. He received assurances from the relevant Sudanese authorities that those who had been released would not be rearrested, charged or prosecuted further.

B. Restrictions on freedom of religion

27. On 11 February 2018, a Sudanese Evangelical Presbyterian church in El Haj Yousif, Khartoum North, was demolished by Sudanese security agents. According to information received, at least three police trucks arrived at the church without notice moments after the service had ended, and security personnel proceeded to clear and confiscate property before demolishing the church. The confiscated property included chairs, bibles and musical instruments.

28. The Independent Expert raised this issue in his meeting with the Sudanese authorities during his visit in April 2018. While representatives of the Sudanese Evangelical Presbyterian Church stated that the Church was the legal owner of the property and land and that the building had been used as a place of worship since 1989, the Government argued that the church building was among the 25 earmarked for demolition in an official order signed in June 2016 for lack of proper authorization for its establishment.

29. During the visit of the Independent Expert, the Government, under the leadership of the Ministry of Justice, organized a forum on freedom of religion in the Sudan with the participation of various religious leaders. While the Independent Expert welcomed this initiative and appreciated the fruitful debate on the subject, he is of the view that further steps should be taken by the Government to ensure respect for the right to freedom of religion in the country.

30. In this regard, the Independent Expert recalls that the right to freedom of religion is enshrined in the Interim National Constitution of the Sudan and article 18 of the International Covenant on Civil and Political Rights. The Constitution also established the Commission for the Rights of Non-Muslims in Khartoum State to ensure that their rights are protected in accordance with the Constitution. The Sudan has an obligation to ensure that the provisions on the right to freedom of religion are fully respected without discrimination.

31. The Independent Expert calls upon the Government of the Sudan to respect the fundamental freedoms enshrined in the Interim National Constitution and to allow the Sudanese people to exercise their rights freely, including the freedom of religion.

C. Press censorship

32. Press censorship by government security agents continued unabated during the reporting period. The National Intelligence and Security Service continued to intimidate and instil fear of arrest in journalists, which consequently impeded press freedom, freedom of opinion and freedom of expression. At least three newspapers were confiscated by officers of the Service multiple times between 15 and 18 January 2018 for publishing articles that were critical of the Government's response to the demonstrations. In addition, security officials arrested at least 15 journalists. Six journalists were arrested in Khartoum on 16 and 17 January and released on 21 January. There are credible reports that Amel

Habani, a woman journalist and human rights activist, was subjected to ill-treatment amounting to torture during her arrest.

33. According to information received by the Independent Expert, reporting on the demonstrations had been deemed a "red-line issue" by the Government. Confiscating newspapers severely circumscribes the availability of information in the public sphere and hinders freedom of expression and access to information.

34. In May 2018, the National Intelligence and Security Service imposed a "red line" on chief editors of Sudanese publications and ordered them not to publish any news related to the death of a businessman who had died in custody. The chief editors were also prohibited from reporting on the prevailing fuel crisis in the country. More specifically, on 22 May, four Sudanese journalists were prohibited, without any justification, from travelling to Saudi Arabia to attend a regional conference for journalists.

35. On 14 June 2018, the Sudanese foreign media department revoked the licence of Qatari journalist Ahmed Yousif.

36. The Independent Expert reiterates his call on the Government of the Sudan to amend the Press and Publication Act in order to provide protection to journalists and newspaper publishers.

D. Women's rights

37. Prior to his mission, the Independent Expert had received information that security forces use violence, intimidation and other forms of abuse to silence women across the country. These abuses are made worse by the wider context of gender inequality in the Sudanese society and the legal framework that institutionalizes it. Public morality offences, including "indecent dress", discriminate against women and are limiting their movement and role in public life. Humiliating corporal punishments of lashing violate international human rights norms. More specifically, the Independent Expert calls on the Sudanese authorities to put an end to a practice which appears to be harassment by public order security police targeting women in Khartoum for alleged indecent dress or street trading.

38. More broadly, discrimination and violence, including sexual violence, against women and girls in the Sudan have been brought into stark focus by the case of Noura Hussein Hammad Daoud, who was sentenced to death by a Sudanese court on 10 May 2018. Hussein was convicted of fatally stabbing the man she was forced to marry, who subsequently allegedly raped her. The Independent Expert had received information that Hussein's forced marriage, rape and other forms of gender-based violence against her were not taken into account by the court as evidence to mitigate the sentence and that the most stringent guarantees of a fair trial and due process were not fulfilled in this case.

39. Nevertheless, the Independent Expert welcomed the decision on 26 June 2018 by the Court of Appeal in Khartoum to quash Noura Hussein's death sentence. While the Independent Expert does not have full details of the Court's decision, he was made aware of the fact that the death sentence was replaced by a five-year prison term. The Independent Expert took the opportunity of this case to reiterate his appeal to the Government to bring its legislation into line with international human rights standards.

40 During the Independent Expert's meeting with the Unit on Combating Violence against Women, he was made aware of a series of initiatives undertaken to address violence against women. These include the submission to parliament of an amendment to the Criminal Act aimed at criminalizing female genital mutilation and the development of a five-year national plan (2018–2023) focusing on access to justice for women in Darfur. The Independent Expert would like to see these initiatives transformed into concrete steps to address violence against women in the Sudan.

E. Economic and social rights

41. The Independent Expert notes that the Sudan suffers from socioeconomic inequalities that have their origin in a range of factors, including lack of support for rain-fed agriculture, problems with land reform and the distribution of development resources between urban and rural areas.

42. According to information received by the Independent Expert, 36.1 per cent of the population in the Sudan live in poverty, whereas one in four Sudanese (25 per cent) falls below the extreme poverty line. Unemployment is the major cause of poverty. The regions with the lowest poverty incidence are Northern and Al Gezira States, followed by River Nile. North Kordofan, South Kordofan and Darfur are the p rest. The labour force in the Sudan numbers 11 million, 9 million of whom are employed, and the private sector absorbs 91.3 per cent of these employees.

43. The Government has increased the cost of electricity for home consumption over 1500 kW to 1.85 Sudanese pounds and doubled the cost of electricity for factories and commercial entities. This could lead to a rise in the costs of agricultural and industrial production processes and hence in the prices of Sudanese exports.

44. The most severe issue is that the high increase in the cost of production might threaten the 2018–2019 agricultural season, which can lead to migration to the capital, big cities and informal mining areas. Ultimately, this would weaken the competitiveness of Sudanese exports on the international markets, despite the fact that the lifting of economic sanctions by the United States presents an opportunity for the Sudan to revive its economy and expand exports, particularly agricultural exports.

45. The Government ended the subsidies on wheat and, as a result, the price of a loaf of bread increased from 0.5 to 1 Sudanese pound. Removing subsidies will likely have a detrimental impact on household income, and in particular on poor households. The withdrawal of subsidies on wheat is also likely to contribute to inflationary pressure via imported inflation, given that the Sudan obtains the bulk of its wheat supplies from imports. If people shift to consuming other kinds of locally produced cereals and if the supply of the domestic cereals does not respond adequately to the increased demand, the prices of these cereals will increase.

46. Together, the impact of the rise in electricity prices and the withdrawal of subsidies on wheat could lead to a steady decline in demand and hence job losses resulting from layoffs, downsizing or the closing down of economic projects.

47. To date, the Government has yet to implement any social protection programmes to absorb the negative impacts of its policies on the most vulnerable parts of the population. Good coordination between development partners in the country and the Government is crucial in order to absorb the negative impacts of the austerity measures.

48. The Independent Expert is of the view that the realization of the economic and social rights of the Sudanese people is key to long-term stability in the Sudan. He calls upon the Government to effectively implement the national poverty reduction strategy in order to address the root causes of inequalities in the country.

F. Human rights situation in conflict-affected areas

1. Darfur

Situation of internally displaced persons

49. Although the disarmament exercise has helped to improve the security situation in some areas of Darfur, the continued presence of armed men and militias threatening the lives, livelihoods and peaceful existence of internally displaced persons leaves many of them preferring to remain in camps with relative security. Internally displaced persons face many challenges within the camps, including lack of adequate food, safe drinking water and adequate health care. Internally displaced persons remain heavily dependent on the services

and support of UNAMID and humanitarian agencies for their security, well-being and humanitarian needs. While such services are limited due to security and other challenges, they nonetheless offer critical lifelines for displaced communities. Internally displaced persons regularly express concern over the occupation of their villages and farmlands by armed militias, which has had a negative impact on their right to food security and prospects for return. In some instances, violence, including killings, sexual violence and abduction, was reported to have prompted the forcible eviction of internally displaced persons from the lands to which they had returned. Root causes of the conflict, including discrimination and access to land and livelihoods, remain a major challenge for the long-term stability of Darfur.

Sexual and gender-based violence and conflict-related sexual violence

50. The vulnerabilities of women, girls and boys to sexual violence, including conflict-related sexual violence, remain a major concern. According to information received, from April 2017 to April 2018, UNAMID documented 111 cases involving 148 victims of sexual violence. The cases included rape, attempted rape, gang rape and killing of the victims in some instances. Displaced women and girls from internally displaced person camps remained the most vulnerable to, and were most often the victims of, conflict-related sexual violence, which primarily occurred around the camps for the displaced, villages of return and other remote areas while victims were engaged in livelihood activities. There was a spike in sexual violence during the farming season due to transhumance activities. The perpetrators were identified by the victims as armed men, militia members in civilian clothes and members of State security forces such as the Sudan Armed Forces, the Rapid Support Forces, border guards and police.

51. Addressing conflict-related sexual violence and assisting victims are critical and require a multisectoral approach involving various stakeholders, both national and international. Government leadership and political will, welded to inclusive participation by national stakeholders ensured by State structures, adequate resources and effective partnerships with the United Nations and other international partners, will strengthen the fight against sexual violence. Justice for victims of sexual violence is also critical for sustainable peace in Darfur; provision of remedies and compensation to the victims and survivors form part of the recovery process and the delivery of justice.

52. The Independent Expert has received assurances from the Acting Chief Justice for Darfur and the Special Prosecutor for crimes committed in Darfur that steps are being taken to address the issue of impunity.

Rule of law and judicial institutions

53. The Government of the Sudan has taken steps to strengthen judicial institutions through the deployment of judges and prosecutors as a means of enhancing robust protection mechanisms for civilians. While the initiative is welcome, victims of human rights abuses continue to complain about difficulties in accessing core elements of the justice chain. In particular, law enforcement authorities have been criticized for a seeming lack of willingness to initiate investigations and apprehend alleged perpetrators. The existence of restrictive laws and the slow pace of legislative reform continue to have a negative impact on the promotion and protection of human rights.

54. While article 27 (3) of the Interim National Constitution states that all international human rights treaties ratified by the Sudan form integral parts of the Bill of Rights, other institutional authorities operate under powers which are inconsistent with the spirit of international human rights law. Among these are the extensive powers accorded to the National Intelligence and Security Service, Military Intelligence and the Sudan Armed Forces. Further, the 2013 amendment to the Armed Forces Act (2007) extends the jurisdiction of the Sudan Armed Forces Military Court to trials of civilians, with the power to impose the death penalty. It is imperative that a comprehensive legislative reform agenda be incorporated into strategies for the protection of civilians, especially in the context of conflict and post-conflict situations.

55. The Independent Expert also visited Shallah Federal Prison in North Darfur and had the privilege of speaking to men and women detained on the basis of the emergency laws. They had not been presented in or appeared before a court for several months. The Independent Expert therefore calls upon the Sudanese authorities to repeal the emergency laws in Darfur and to review the cases of all 117 men and women currently detained in Shallah Federal Prison in relation to the emergency laws, with the aim of ensuring compliance with due process and fair trial standards. Should it be found that these cases are not compliant, the Independent Expert appeals for the immediate release of these individuals.

56. During his interaction with the detainees, the Independent Expert was made aware of the situation of 56 of them who had been sentenced to death. This group includes a woman whose appeal for a presidential pardon was recently rejected. These individuals are at risk of being executed at any time. They need protection, and international attention must be directed to addressing this issue as a matter of urgency. The Independent Expert would encourage the Government to halt the execution of these individuals and to establish a moratorium on executions with a view to abolishing the death penalty.

57. The Independent Expert has noted the need for support in this area to help government authorities in extending the rule of law and State authority to remote areas so as to build public confidence in the rule of law and law enforcement institutions, reduce intercommunal conflict, enhance accountability and create conditions conducive to durable solutions and voluntary return of displaced populations. Interventions in this area would target the capacity of the State authority, as well as community-based conflict management and reconciliation mechanisms, to mediate and address resource-based and local conflicts. In addition, capacity would also be invested to strengthen legislation and policies on land and resource management.

2. Blue Nile and South Kordofan

58. In Blue Nile, displaced communities fought along ethnic lines following a split within the leadership of the armed opposition group SPLM-N in July 2017. On 17 February 2018, the two SPLM-N factions fought in the areas of Tunfona, Marmaton, Goz Bagar, Aljamamat and Alfug. People were displaced again and fled to areas south, with reports coming in of new displacements of civilians in the region. An assessment mission led by humanitarian actors reported up to 500 civilians displaced. The situation was described as dire with houses burned, property looted and little to no access to food, water, shelter and health services.

59. Urgent efforts are needed to bring a permanent end to this conflict and to ensure that humanitarian assistance has safe access to all areas. The conflict has already had a long-term effect in the area and the population fear the possibility of a resumption of conflict. While both sides to the conflict express their intention not to resume fighting, there have been no mutually agreed cessations of hostility.

60. In South Kordofan, despite the prolonged period without a mutually agreed cessation of hostilities between the Government and SPLM-N, relative calm is observed in the region.

61. In South Kordofan, the Independent Expert was informed that an inter-agency assessment mission had been conducted in 18 hard-to-reach communities in Al Abassiya locality between 4 and 8 February 2018. According to information received, some 34,896 people in need were identified, including internally displaced persons, returnees and vulnerable populations in the host communities. An estimated 60 per cent of these people are women and children.

62. The Independent Expert notes that this was the first time in seven years that some communities had been reached by humanitarian aid organizations since the conflict recurred in 2011. Dire needs were identified, including lack of nutrition treatments and health facilities available to medical staff in 16 communities, unsafe quality and inadequate quantity of water in all 18 communities and about 90 per cent of the community members practising open defecation.

63. The Independent Expert calls on the Government and the Sudan People's Liberation Movement to respect the rights of the civilian population and to facilitate access for the delivery of humanitarian assistance to people in need.

G. South Sudanese refugees in the Sudan

64. The Independent Expert commends the Sudan for its long-standing tradition of hosting refugees. During the period under review, the Sudan continued to host refugees from Chad, Eritrea, the Syrian Arab Republic, Yemen and other countries. Importantly, the Sudan is one of the major host countries for refugees fleeing the deadly conflict in South Sudan. According to the Office of the United Nations High Commissioner for Refugees, as of 31 May 2018, the Sudan had hosted some 763,144 South Sudanese refugees.

65. While noting the efforts undertaken by the humanitarian community to provide humanitarian assistance to South Sudanese refugees, the Independent Expert appealed to donor States to increase their support in order to address the needs of hundreds of thousands of refugees in the Sudan.

V. Technical assistance and capacity-building

66. In his engagement with the Government of the Sudan and other stakeholders, the Independent Expert ascertained the roles of different bodies in the Sudan engaged in human rights promotion and protection in the country and received various requests for technical assistance. In his previous report (A/HRC/36/63), the Independent Expert undertook an assessment of technical assessment needs and identified some urgent areas for technical assistance to the Government. In his meetings with international partners, United Nations agencies, UNAMID and members of the diplomatic corps and Sudanese authorities, the Independent Expert was informed of various ongoing programmes to provide support and technical assistance to the Sudan in the field of human rights.

67. A notable example is the technical assistance provided by the United Nations Development Programme and the Government of Canada to the Sudan National Commission for Human Rights and the Advisory Council for Human Rights. In addition, the Government of Canada is providing funding for the joint rule of law and human rights programme in Darfur. This project aims to strengthen the capacity of the formal justice system (courts, judges, prosecutors, police and correction) in the Darfur region. The Independent Expert was also made aware of the financial and technical support provided to the National Council for Persons with Disabilities and the Secretary-General of the National Council for Child Welfare by the Government of Italy.

68. The Independent Expert was also made aware of technical projects developed by other United Nations entities, including the United Nations Children's Fund, the United Nations Population Fund and UNAMID, to strengthen the capacity of national stakeholders in the field of human rights.

69. The Independent Expert is of the view that technical assistance and capacity-building needs in the field of human rights are broad and require high levels of funding, which must be sourced both internally from the Government itself and externally from different cooperating partners within the donor community and institutions. The Independent Expert would like to urge donor countries and the international community to provide the necessary technical and financial support to the Sudan in the field of human rights.

70. He also takes this opportunity to reiterate his call on the Government to facilitate the deployment to the Sudan of a technical mission from the Office of the United Nations High Commissioner for Human Rights (OHCHR) in order to discuss and agree on technical assistance needs in a constructive manner. Such a deployment would be in compliance with Human Rights Council resolution 36/26, in which the Council requested OHCHR to provide technical assistance in response to the request from the Government of the Sudan to

improve the situation of human rights in the country with a view to fulfilling its human rights obligations and commitments.

VI. Conclusion and recommendations

71. **The Independent Expert's assessment of the implementation of his previous recommendations was based on information made available to him by the Government of the Sudan and other stakeholders, including national and international partners with an operational mandate in the field of human rights in the Sudan. The Independent Expert has taken note of assurances of cooperation and commitments from the authorities to take steps towards implementing the recommendations contained in the Independent Expert's previous reports.**

72. **In this regard, he welcomed the appointment of the Chair, Deputy Chair and commissioners of the Sudan National Commission for Human Rights, which he hopes will enable the Commission to function effectively. The Independent Expert also commends the Government for having taken positive steps towards improving the security situation in Darfur, including efforts by State authorities to address community-level conflicts and foster social cohesion by drawing diverse communities together through processes of dialogue and consultations.**

73. **In spite of these steps and assurances of cooperation, the Independent Expert is deeply concerned that a significant number of his recommendations have still not been implemented. In this context, he notes that the harmonization of national laws with international human rights principles has advanced at a slow pace. Parts of the legal framework, such as the National Security Act and the emergency laws in Darfur, continue to infringe on fundamental rights. In Darfur particularly, land occupation and violence targeting internally displaced persons, including sexual violence against displaced girls and women, continue to hinder their return to their areas of origin.**

74. **He wishes to reiterate that the Government will ultimately be assessed by its willingness to implement his recommendations, which will lead to an improvement in the human rights situation in the country. He therefore urges the Government to take all the necessary measures to implement the recommendations without further delay in a more constructive engagement with the Human Rights Council, the United Nations and the international community.**

75. **On the basis of his appraisal and assessment of the situation, the Independent Expert reiterates all the recommendations previously made and which have not yet been implemented. In particular, the Independent Expert makes the recommendations below.**

A. Government of the Sudan

76. **The Independent Expert calls upon the Government of the Sudan to:**

(a) **Take concrete measures to reform aspects of the current legal framework that are in breach of the exercise of civil and political rights and fundamental freedoms. In particular, priority should be given to withdrawing law enforcement powers, including the power of arrest and detention, from the National Intelligence and Security Service;**

(b) **Ratify all remaining international instruments for the protection of human rights, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**

(c) **Ensure that the application of the death penalty in all cases takes place in a very strictly defined set of circumstances, including guarantees that the minimum fair trial standards demanded by article 14 of the International Covenant on Civil and Political Rights have been fully met;**

(d) Institute a moratorium on the imposition of the death penalty as called for by the General Assembly in its resolution 62/149;

(e) Adopt a holistic approach to development and effectively implement the poverty reduction strategy to address the root causes of inequalities in the country.

B. International community

77. **The Independent Expert calls upon the international community to:**

(a) Continue to provide the Government of the Sudan with technical and financial support for building democratic institutions for the protection and promotion of human rights in the country;

(b) Consider resuming its discussions with the Government of the Sudan, in the light of the Government's request for technical assistance in the field of human rights, to ensure the establishment of an office of the United Nations High Commissioner for Human Rights in the country in order to assist the Government in meeting its human rights obligations.

United Nations A/HRC/39/71/Add.1

General Assembly

Distr.: General
19 September 2018

English only

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda item 10
Technical assistance and capacity-building

Report of the Independent Expert on the situation of human rights in the Sudan: Comments by the State*

* Reproduced as received.

GE.18-15506(E)
1815506

Please recycle

Report of the Independent Expert on the situation of human rights in the Sudan: Comments by the State

A. Introduction

1. The Government of the Sudan welcomes this opportunity to comment on the observations and findings of the draft report of the Independent Expert Mr. Aristide Nononsi on the Situation of Human Rights in the Sudan, which we received attached to the note verbale of the Office of High Commissioner of Human Rights dated 6/7/2018. The Note Verbale 20 of July As a deadline for the submission of the Government of Sudan's comment on the draft report. We call upon the Office of the High Commissioner to take into account paragraph 74 of Manual of Operations of Special Procedure of the Human Rights Council, which provides for six weeks as the ideal period for submitting the State's comment, and not less than four weeks in all cases, unless otherwise agreed with the Government.

2. While Sudan was waiting for a second visit of the Independent Expert pursuant to his promise during the first visit in April 2018, and has completed the preparations and arrangements for this second visit, we were surprised to receive the draft report without notice of cancellation of the second visit.

3. The Government of the Sudan reaffirms its commitment to cooperate with international human rights mechanisms in such a manner that respects the sovereignty of the State and avoids politicization, double standards, and selectivity of human rights issues, and adherence to guidelines, rules of conduct and procedures adopted by the General Assembly of the United Nations and the Human Rights Council.

4. Sudan hopes that the independent Expert will take into consideration the comments and observations of the Government of the Sudan on the draft report in the preparation of his final report, and requests the Office of the High Commissioner for Human Rights to place this commentary as an addendum to the final report of the Independent Expert, to be circulated and published accordingly, in accordance with paragraph 8 (d) of Code of Conduct for Special Procedures Mandate-holders.

B. General observations

5. We note that the report did not focus on the ideas and proposals needed to address challenges that require technical assistance and capacity-building. We respectfully submit that such tendency is inconsistent with the mandate of the Independent Expert renewed by HRC resolution A / HRC / RES / 36/26, and incompatible with paragraph 3 (c) and paragraph 7 of the Code of Conduct for Special Procedures Mandate-holders[1] (observance of the terms of mandate), and paragraph 84 of the Manual of Operations of Special Procedures of the Human Rights Council.[2]

6. In most of its observations and findings, the draft report relied on information that is clearly not based on credible evidence. At the same time, the Independent Expert underestimated the information and data provided by the Government during his visit to the country or totally excluded it. The draft report also depends on anonymous reports and information without references for accuracy and impartiality[3] .Further, the draft report does is not free from ethnic classification of people of the same country whose constitution and law prohibit racial discrimination, which is contrary to the duty of moderation and discretion required by paragraph 12 (b) of the Rules of Conduct for the Special Procedures.

---

[1] Annex to HRC/RES/5/2.

[2] Manual adopted by the mandate-holders in June 2008, at the 15th Annual Meeting of Special Procedures.

[3] See for example Key Recent Developments, paragraphs 11, 12 and 14 and Human Rights challenges paragraphs 2, 3, 4, 5, 6, 7, 11, 24, 25, 26, 27, 28, 29, 31 – 4 (inclusive) and 49.

An example of this is paragraph 9 (page 4 of the draft report), which described the vast majority of "armed militias attacking civilians in Darfur" as being of Arab ethnicity.

7. In the sixth part of the draft report (conclusion and recommendations), the Independent Expert expressed his concern that a number of his recommendations had not been implemented. Perhaps what makes the Independent Expert manifest such view is that most of his recommendations in the previous report did not comply with the guidelines which entail that mandate-holders recommendations shall be specific, measurable, achievable, realistic and time-bound (SMART criteria), as set out in paragraph 98 of the Manual of Operations of Special Procedures of the Human Rights Council. With regard to the Independent Expert's focusing on legislative reforms in the said recommendations, the large amount of legislations assigned to the legislative machinery makes this process not as expeditious as desired. The Independent Expert has been briefed on the legislations that have actually been enacted and those which are still pending before the Parliament and the Council of Ministers.

C. Comment on draft report by paragraphs

Part Three: Key recent developments

Paragraph 9

8. The High Committee of the Collective Arms Campaign, chaired by the Vice-President of the Republic, despite its recent establishment and the challenges it faces, is exerting enormous efforts to enforce its tasks. To date, it has collected more than 100,000 pieces of weapons in the states of Darfur and some adjacent areas and is still continuing its work, making a positive impact on the stability of security situation in affected areas.

Paragraph 11

9. No lethal force was used by the police to disperse demonstrations in March 2018. The maximum level of force applied was the use of tear gas, bearing in mind that no deaths or serious injuries had taken place among the demonstrators. The police forces acted in accordance with the provisions of the Criminal Procedure Act of 1991 relating to addressing riots, under supervision of a public prosecutor. As for the events of the city of El-Geneina in West Darfur, there were limited demonstrations in the city in 2017 due to protests led by students of some schools, which later on turned into riots and sabotage. The only case of death referred to in the report occurred before the arrival of the police force. The police took the necessary legal measures and formed a committee of inquiry into the incidents. They found that the participating police did not shoot any participant in the demonstrations.

Paragraph 12

10. The paragraph pointed to the arrest of a number of prominent politicians and journalists, hiding the place of their detention and preventing their visit, but did not mention the names of those persons or specify the date of their arrests. We affirm that the law guarantees all rights to all detainees, including contact with a lawyer and visiting their families and relatives under the supervision of the Public Prosecution.

Paragraphs 13, 14

11. There were no military operations in Jebel Marra and what has actually happened was a an instance of security activities carried out by the Sudanese Armed Forces (SAF) in response to information about the gathering of Abdel Wahid of his forces in late 2017 and threatening the security, following the split of Abdul Wahid's forces into three factions. That trend resulted in violent conflicts and operations that led to displacement of a number of citizens, terrifying them, looting their property and imposition of fees and excise thereon. One of these factions attacked an armed forces camp in the town of Jawa, killing one officer and injuring four others. The armed forces, acting under their constitutional and legal duties in realizing peace and stability, intervened by sending symbolic infantry troops

in security activities to restore security and stability, and this was what had eventually been achieved. In July 2nd, SAF declared the end of their activities of securing the area. The Government continues to renew its call on Abdul Wahid to join the peace process.

12. The attacks carried out by Abdul Wahid's forces resulted in the killing of 2 shepherds. 2,285 families were affected in the locality of Northern Jebal Marra (Kourou) by burning houses and looting of property.About 208 families in the Locality of Centeral Jebel Marra (Gulu), and 1,220 families in Locality of East Jebel Marra (Derbat) were displaced.

13. With regard to facilitating humanitarian access to the areas of Jebel Marra, the Government intervened in collaboration with local and international partners to provide assistance to the affected and displaced persons, including food, accommodation materials and drilling of water wells. Access facility measures have been made available to a number of humanitarian actors such as World Health Organization, Norwegian Church Aid, UNICEF, the Danish Council, the ICRC, WFP, the World Medical Corps and Catholic Relief. There are regular flights by the World Food Program to Zalingei and Gulu in central Darfur. This refutes the veracity of the contention that access to this area has not been granted. The contention itself is in conflict with paragraph 31 which states that internally displaced persons depend on UNAMID and humanitarian agencies for their support.

14. The paragraph referred to the US administration's decision to lift the sanctions on Sudan but did not say anything about the negative impacts of these sanctions on the enjoyment of human rights in the Sudan. The recommendations in the draft report ignored any call for relief or redress, or lifting the remaining of the unilateral coercive measure.

Part Four: Main Human Rights Challenges

Paragraph 2

15. This paragraph was characterized by broad generalization and failed to mention specific facts in definite places and times.

Paragraph 3

16. Contrary to what is stated in this paragraph, the State strives to address the root causes of the conflict in Darfur by accomplishing implementation of the Doha Document and establishing specialized commissions for Darfur after the expiry of the Regional Authority mandate. Among these commissions is the Darfur Land Commission, which enjoys a broad mandate, including the use and management and protection of tribal land rights, the review of land administration and exploitation processes, the proposal of relevant Bills of law, arbitration of disputes over land rights, and so forth. The Commission has carried out studies and collected information on the customs and heritage of the people of Darfur pertinent to the use of land. It prepared a draft land use map, and the survey of natural resources in Darfur. The Commission also developed Bills of urban planning law and land disposition and regulations, to be adopted by the legislative councils of the five states of Darfur. Concerning CRSV, the cases of sexual violence were not reported in the camps, according to the report of the Prosecutor of the Darfur Special Court. Likewise, no cases of sexual violence were mentioned during the visit of the Assistant Secretary-General for Sexual Violence, Ms. Parmela Patten, to camps in conflict areas in February 2018.

17. With regard to the state of emergency in Darfur, the security situations still justify its continuity of its imposition. However, we emphasize that all crimes and violations are prosecuted and tried in accordance with to the natural law and before the ordinary courts of justice. The rights stipulated by the Constitution not to derogate from in case of emergency are not violated. The State's assessment of the need to continue or lift the state of emergency is not be looked at as of less value than the assessment of the UN Security Council in respect of UNAMID in remaining in or exiting Darfur.

Paragraph 6

18. As for lawyer Slaih Mahmoud, he was arrested during his participation in demonstrations wherein no compliance with the law and order had been observed. He was released upon completion of the investigation on 20 February 2018. Concerning Ms. Miass

Seif, she was arrested with three others (one women and two men) in al-Zuhour district of Khartoum with possession of cannabis, and criminal proceedings were initiated against them under the Narcotics and Psychotropic Substances Act 1994 (section 20 (a)). In order to complete the investigation procedures, the suspects were referred by the Public Prosecution to the Criminal Laboratory for the purpose of examining the effect of drugs in the blood. The result was positive for two of them and negative for the others. The defendants were released on bail pending completion of the proceedings.

Paragraphs 10 – 14

19. The Evangelical Presbyterian church of El Haj Yousif suburb had been constructed on a piece of land which is a private ownership of an individual. The demolition took place by virtue of a judicial order after final adjudication in a dispute over proprietorship[4]. The court decision of removal was executed by the judiciary police in the presence of the competent court judge. The said ruling of the court became final after it has been confirmed by the Court of Appeal of El Haj Yousif and East Nile District. The moveable properties attached during execution were returned to their owners. The said church was not one of the 25 others earmarked for demolition, as the draft report suggests. The story of the 25 churches referred to were decided to be demolished for reason pertinent to contravention of the laws and regulations governing urban planning and land disposition. However, the administrative demolition decision has been suspended by the State higher authorities, and remained untouched. It is worth mentioning that this demolition decision included also number of schools, mosques and houses in that area.

20. Beside the forum on freedom of religion and religious co-existence referred to in paragraph 12 of the draft report, we add, in the same context, that a workshop on dialogue between religions was organized on 8 – 9 May 2018 in collaboration with the Ministry of Foreign Affairs, upon an imitative by the US and Canada Embassies, with participation of the Deputy Director of Human Rights Center of Essex University, in addition to representatives of all entities concerned. Other activities relevant to the issue have also taken place.

Paragraphs 15-19

21. In paragraph (17), it was stated that editors-in-chief were banned to publish any news regarding the death of a businessman during his detention. This claim is incorrect. A number of Sudanese newspapers (Al-Intebaha, Al-Meghar, Al-Saihaa, Al-Sudani) published details about the suicide of the businessman, and have never been prohibited from so doing.

22. As regards pre-censorship of newspapers, since 2016 a republican decree has been issued prohibiting pre-censorship. More than forty newspapers, including 28 political dailies, are currently issued in Khartoum. The International Covenant on Civil and Political Rights itself provides for the restriction of the exercise of the right to freedom of expression by the necessary provisions established by law, including those relating to the protection of national security or public order. With regard to saying that press writing on March demonstrations is a red line, no executive or administrative decision has been made to that effect. The Government did not take any steps to block online press sites, including social media. The number of internet users in Sudan up to March 2018 was 11 million, according to the National Telecommunications Authority, while newspaper readers do not exceed 200,000 out of 38 million people constituting the number of Sudan's population.

23. Regarding the four journalists who were prevented from traveling to Saudi Arabia, that action was taken due to the fact that they violated the regulations for covering foreign conferences where they had to obtain the approval of the competent authorities, notably the Ministries of Information and Foreign Affairs. The correspondent of the Middle East journalist Ahmed Yousif, was stopped by the Department of Foreign Media of the Ministry of Information for violating the licensing regulations and working as a correspondent for

[4] Case No. CC/107/2016, General Court, El Haj Yousif.

two outside institutions instead of the one who was authorized to work with. The assumption that the journalist Amel Habani was subjected to a treatment that may amount to torture is unfounded. She was arrested while taking part in riot incidents with others in an unlawful gathering to entice the use violence. Their rights were respected in accordance with the rights of the detainee which stated in section 51 of the National and Intelligence Security Services Act 2010, and treated properly. They were eventually released after investigation was completed.

Paragraph 20

24. This paragraph casted general accusations on the law enforcement agencies concerning use of violence and threat against women to silence them, based on information "received" by the Independent Expert, without reference to its source, or affirming its credibility. The worst of it is the invective casted down against the State's legal framework, which was described by the Independent Expert as institutionalizes gender inequality. How could a constitutional framework institutionalizes gender inequality whereas it provides that "the State shall guarantee equal right of men and women to the enjoyment of all civil, political, social, cultural and economic rights, including the right to equal pay for equal work and other related benefits"[5], and that "The State shall promote woman rights through affirmative action"[6] ?

25. The Quarter-centennial Strategy (QCS) (2007-2031) affirms women participation in comprehensive renaissance, and the strategy of women empowerment formed a main axis in the QCS. Further, the national policy for women empowerment was developed and approved by the Council of Ministers in 2007, forming a practical support of the Constitution of Sudan, national laws and regional and international treaties. It was updated in collaboration with development partners in 2015 – 2016. Through those projects, strategy targets education, health, environment, economic empowerment, human rights and law, political participation and decision-making peace and conflict resolution. The strategy set a detailed plan of the national policy for women empowerment included in the second fifth plan 2012 – 2016 applied in central and regional levels. The percentage of women participation in the Executive power (national Council of Ministers and governments of states) is 33%., and 33.5% in the legislature (national Parliament and legislative councils of the states). These are just examples of the promotion of women rights and their role in society

26. In the context of adducing the issue of dress as one of the punishable public morality offences, the Indecent Expert used the expression "indecent dress". This is an incorrect and illusive translation for the Arabic expression used in section 152 of Criminal Act. The accurate corresponding term in English is "lascivious" or "offensive" in qualifying the dress under the said section. Referring to what the Independent Expert called "kesha phenomenon" to signify that it is a practice done by the authority to violate women rights, we indicate that the so-called "kesha" is a local appellation used to describe public order campaigns carried out by local administration targeting unlicensed and hawker vendors and public street offences in accordance with the local laws regulating the same.

Paragraphs 21 and 22

27. The case of Nora Hussein is just a legal and judicial procedure pertaining to the commission of a criminal offence, but the Independent Expert considered it as an example of an increase of discrimination and violence against women. He issued his hasty prejudgment in stating that the court did not consider the circumstances as mitigating factors, although he knew that matter was still under judicial consideration (sub judice), since the verdict of the court of first instance is not final, before recanting his view by indicating the decision of the Court of Appeal which amended the decision of the trial judge in paragraph 22 of the draft report. The Independent Expert was one of the signatories to a joint urgent appeal issued by certain mandate-holders[7]. The Sudan responded in details to

[5] Article 32 (1) of the Interim Constitution.

[6] Ibid, Article 32 (2).

[7] UA SDN/3/2018

tat appeal stating circumstances of the case and the available guarantees for the trial and the stages of legally available appeal.

Paragraph 23

28. The Criminal Act 1991 (amendment 2018) Bill has been prepared including therein a provision which criminalizes and punishes for female genital mutilation (FGM). This law enactment process was finished at the level of the national Council of Ministers, and has been tabled to the Parliament. It is worth mentioning that 7 states issued their legislations which prohibit and punish for practice.

Paragraphs 24 – 25

29. Paragraph 23 of the draft report contained some generalities and analysis of the economic situation. Rain-fed agriculture is the largest agricultural sector on which Sudan depends in the production of most of its consumed and export crops. Artificially irrigated areas are limited, and usually confined to the Nile banks. There is no preference in the State's support to the irrigated sector at the expense of rain-fed sector; in fact, the attention paid to the latter might exceed that paid to the former. Regarding the distribution of the development resources between urban and rural areas, Sudan adopts federal system in accordance with the Interim National Constitutions and constitutions of the 18 states, and every state has a government and a legislative council. Every state is divided into a number of localities. Revenues are allocated between the central and regional levels where 30% of the national resources are transferred to the states. Moreover, a lot of big projects such as roads, airports, big hospitals and universities, are financed by the national budget, particularly such projects which are funded by foreign grants and loans.

30. The rate of poverty mentioned in paragraph 25 of the draft repot (36.1%) was an outcome of a family survey conducted by Sudan Government in 2014 – 2015. However, it is notable that such rate is significantly lower than that of a previous survey conducted in 2009 which resulted in 46.5% poverty rate, an indicative that Sudan exerted efforts to reduce poverty rate in a short period. Figures indicate that poverty rate in rural areas decreased from 57.6% to 36.5% during this period, while the percentage of poverty in urban areas increased from 26.5% to 37.3% in the same period. This survey refutes the assumption that there was discrimination in favor of urban areas in distribution of development resources.

Paragraph 26

31. Electricity is still significantly subsidized particularly in household consumption, while subsidy proportionately decreases where consumption increases. According to a study made, consumption of small and medium families does not exceed 1000 KWA per month. Further if we compare the price of electricity in Sudan with regional and international states, we will find that the Sudanese price is ranking within the cheapest. Another form of power subsidy is that of fuel, on which a big part of electricity production is dependent. Increase of electricity price in industrial areas does not increase the cost of production because electricity is not the only or essential factor in industrial and agricultural production, particularly, the agricultural production which mostly depends on rain irrigation.

Paragraph 27

32. Lifting subsidy on commodities is a key issue in the Sudanese economy, since subsidy causes many imbalances in the economic structure. the International Monterey Fund (IMF) in its many reports known as Staff Monitored Program (SMP) continued to recommend the necessity of lifting subsidies to reform Sudan economy particularly subsidies of fuel, wheat and sugar. The Government and IMF agreed on gradual lifting of subsidies (support) starting with sugar then fuel and finally wheat. Subsidy encourages smuggling of commodities to the neighboring countries and entices bad practices in transactions and corruption, notably by utilizing subsidy and redirect commodities to unintended strata. The price of imported wheat is less than that of wheat produced internally because the imported wheat is still subsidized in two ways; namely, exemption

from import fees and VAT, by considering it as a priority for which the State provides foreign currencies in the official rate, while the Government bears the difference between the official and parallel currency rate.

Paragraph 29

33. The Government continues its efforts in addressing the issue to mitigate the negative impacts of lifting subsiding and to adjust exchange rate through allocation of considerable funds in 2018 budget, besides other interventions by the Government which have become part of institutional system of the State. These include:

- Provision of direct support through direct financial transfers from the general budget, budgets of states and Zakat Fund, covering about one million families. 60% of Zakat revenue has been redirected to the poor;
- Support through health insurance: currently covers 2.8 million poor families, equals 12.1 million beneficiaries;
- Provision of support for poor students through university sponsoring progamme. The number of students benefiting from the project increased to 87363 representing 30% of students who are supported monthly by the Students Support Fund;
- Implementation of a number of projects, such as the National Project for the Development of Rural Women, Good Loans for Pensioners, Savings Bank's projects and Pensioners Social Development Foundation;
- Establishment of the Comprehensive Programme of Social Security in 2017 aiming to addressing poverty through a package of interventions in the fields of water, health, education and livelihood to achieve food security, beside community awareness raising, by targeting 52 poorest localities in different states of the Sudan. The programme also targets with first state most vulnerable groups including children, women, youth, elderly, persons with disability, demobilized soldiers, homeless, orphans, internally displaced persons and nomads;
- Encouragement of micro finance by different banks and enhancement thereof by legislations, and establishment of institutions to organize it.

34. The preparation of the overall Poverty Reduction Strategy Papers (PRSP) is currently underway at the stage of finalization. The African Development Bank, International Bank and the European Union participate in funding and technical supervision. Moreover, the State leadership concern with strategy plan in all its stages of preparation and implement.

Paragraph 31

35. The Government is fully committed with the bilateral case-fire in Darfur and the two areas, which it remains to renew every six months; the most recent was on 15 July 2018. Internationally recognized human indicators signify stability in the humanitarian situation in the conflict affected areas including Darfur. Food indicators, as well as health indicators rates are normal, since no cases of spread of endemics have been recorded any prevalence epidemics in IDPs camps. With regard to humanitarian access indicators, the coverage ranged from 95% to 98%. This paragraph poses a mistaken allusion that IDPs depend on UNMID and humanitarian organizations in the provision of assistance and support, depreciating the role of the government. If we consider the coordination mechanisms of humanitarian assistance which the Government has established for this purpose, they will be quite enough to signify the magnitude of will and the efforts exerted by the Government. The most important of these mechanisms are: the Higher Committee for Humanitarian Assistance, the joint national mechanisms of human aid chaired by the Vice-President, the Joint National Mechanism to follow Up plans of the United Nations and Partners, the Joint Coordination Committee between the Government, the United Nations and Voluntary Organizations, the Joint Committee to follow up Directives and Procedures of Humanitarian work ...etc.

Paragraph 32

36. This paragraph mentioned UNAMID's Statistics of sexual violence cases which the UNAMID have not shared them with the Government pursuant to the SOFA and the instrument of UNAMID's mandate. It didn't mention any thing about statistics of the Public Prosecutor of the Special Court in Darfur (PPSCD) who provided the Independent Expert with a full and detailed report on those issues during the IE visit to North Darfur. Therefore, there is no need to include these statistics in this comment. We only indicate that this information of PPSCD's report was disaggregated and included the number of the case, the name of the accused and his age, profession and educational level, the victim's name and his/her age, educational level, the relation between accused and victim and the place where the crime was committed.

37. By analyzing the PPSCD's report it appears that the perpetrators are usually victims' neighbors including those who work in regular forces, or their relatives, or family friends, or juvenile adolescents, that the sense of crimes are not during an armed conflict and that there is no any case of mass rape.

38. Offices of public prosecution are expanded all over Darfur states to facilitate access to justice. They work on shift system for 24 hours, including inspection of places of detention and prisons.

39. Neither the public prosecution nor the police in Darfur states have recorded any reports concerning sexual abuse committed by members of regular forces. Further, the report of the UN Security General on the African Union - United Nations Hybrid Operation in Darfur (UNAMID) dated 27 December 2017[8], particularly in its paragraphs under the heading "Violence against civilians and human rights violations"[9] did not refer to commission of any gender based violence by the police forces or any other law enforcement agents in Darfur, contrary to what has been indicated in this paragraph of the IE draft report.

Paragraph 35

40. The assertion by the Impendent Expert in this paragraph that the law enforcement agencies are criticized for lack of willingness in initiating investigations and apprehending alleged perpetrators is an untrue allegation. Sudan Police is an inveterate institution and highly professional thanks to its legal experience which extends to more than a century. Its accumulative experiences enable it to perform its duties and its functions as provided for in the Constitution and the law, and to enforce the law without bias, favoritism, or influence for or against any party of criminal proceedings, whether he/she is an accused or a victim.

Paragraph 36

41. Among the amendments to the Interim National Constitution (INC) of 2017, article 151 which is concerned with National Intelligence and Security Service (NISS), has been amended including by stipulating that NISS service shall be professional and it shall focus, in carrying out its functions, on the collection, analyzing and classification of information, and presenting the same to the bodies concerned[10]. In respect of the Armed Forces Act amendments of 2013, civilians are not subject to this law as long as they possess this status. Those who carry the arms and join a group with a leadership and uniform to fight against the State would no longer be labelled as civilians. However, and due to the ambiguity that might have affected the drafting of that amendment, a new Bill has been prepared to remove the confusion and is currently before the Parliament.

Paragraphs 37- 39

42. We affirm that the prisons in Sudan are committed to respect the international standards of treatments of prisoners and adhering, as established by the national constitution and legislators in this respect.

[8] S/2017/1113.

[9] Ibid, pages 3 and 4.

[10] Article 151 (2) of INC 2005, as amended 2017.

43. Concerning the 117 detainees in Shala prison in North Darfur state, they had been arrested according to law of emergency as declared by President of the Republic and endorsed by the National Legislature (the National Assembly and Council of States), within the framework of the arms collection campaign which is one of the commitments of Doha Document for Peace in Darfur (DDPD) which preordained collecting weapons from the militias, rebels and others groups and individuals to achieve peace in Darfur states.

44. We would like to indicate that section 28 of the Criminal Producers Act 1991 provides for inspection of prisons. A judge or prosecutor, pursuant to jurisdiction, may enter any prison to inspect and monitor the detainees and the conditions of the detention. Section 46 of the Prisons Regulation and Treatment of Prisoner Act 2010 is reaffirms this right by providing that "The Chief Justice, Speaker of National Assembly or any of his deputies, Attorney General, chairs of competent committees of the National Assembly, Minister of Justice, Under Secretary of Ministry of Justice, Judges of the Supreme Court, members of the Committee[1], Counselors-General of the Ministry of Justice, competent appeal and general court Judges, Chief and senior persecutors and lower prosecutors may visit the prisons as official visitors by virtue of their respective offices".

45. The Independent Expert referred to 56 prisoners who were sentenced to death in Shala prison and they are waiting for execution including a woman. All those convicts have had fair trials and have exhausted all the means of appeal which provided for by the law. It is to be noted that they are all convicted in cases involving private right (murder).

Paragraph 46

46. The actual number of refugees from state of south Sudan estimated at 1.258.920 persons, 788.812, of them were registered living in camps and outside camps. The number of refugees from other nationalities is 660.229, for whom Sudan takes the greater burden in hosting them, including by providing land for camps which is deducted from agricultural land, provision of security thereof, beside sharing citizens of services provided by the Government.

Paragraphs 48 - 52

47. These paragraphs of the draft report indicate the efforts by the international community and its relevant mechanisms in providing technical support and capacity building to the national mechanisms and the importance of coordination with relevant State authorities in deterring priorities fields, and quality of required capacity building and technical assistance in order to maximize the expected benefits from limited available resources. Unfortunately, we assure that the assistance so far provided is inadequate and incommensurate with matrix of the areas and needs of technical assistance and capacity building submitted by the Government to Independent Expert in 2016 and updated in 2017.

48. The Government of the Sudan reiterates its commitment of cooperate with Office of the High Commissioner for Human Rights with regards to technical mission to evaluate the needs for technical assistance and capacity building in accordance with the agreed terms of reference, so as to assist the Independent Expert in the context of his mandate..

Paragraphs 53, 59

49. In conclusion, we hope that the findings and recommendations would be reformulated by taking into consideration the Sudan's comment on the draft report of the Independent Experts.

---

[1] The Prison Committee established under the Act, and is composed of 15 members representing ministries, Parliament, the Judiciary and National Commission on Human Rights.